



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy and Discount, L.L.C.

Respondent Name

Nationwide Mutual Fire Insurance

MFDR Tracking Number

M4-16-3173-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 16, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The insurance carrier, Sedgwick, failed to take final action on the claim within the 45-day period set forth in TAC §133.240. Specifically the claim was submitted on 3/10/16 and it was received by the provider on 3/21/16 ... and no action was taken on the claim. After 30 days, the Pharmacy had submitted a second request for payment (on 5/5/16) based upon expiration of the 45-day period and it was received by the provider on 5/13/16 ... Again, no action was taken on the claim."

Amount in Dispute: \$2,289.71

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of review.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 9, 2016	Pharmacy Services - Compound	\$2,289.71	\$2,289.71

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.2 defines terms used in the medical billing and processing chapter.
3. 28 Texas Administrative Code §133.200 sets out the insurance carrier's procedures for receipt of medical bills.
4. 28 Texas Administrative Code §133.210 sets out the procedures for medical documentation.
5. 28 Texas Administrative Code §133.240 sets out the procedure for medical bill processing by the workers' compensation insurance carrier.

6. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
7. 28 Texas Administrative Code §134.503 sets out the fee guideline for pharmacy services.
8. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
9. The submitted documentation does not include explanations of benefits.

Issues

1. What are the services in dispute?
2. Did the workers' compensation carrier respond to the medical fee dispute?
3. Did Nationwide Mutual Fire Insurance reduce or deny the disputed services not later than the 45th day after receiving the medical bill?
4. Is Sentrix Pharmacy and Discount, L.L.C. entitled to reimbursement for the disputed services?

Findings

1. Sentrix Pharmacy and Discount, L.L.C. (Sentrix) is seeking reimbursement of \$2,289.71 for a compound dispensed on date of service March 9, 2016 with the following ingredients:
 - Amantadine 8%, NDC 38779041109, 19.2 grams
 - Amitriptyline 2%, NDC 38779018908, 4.8 grams
 - Baclofen 4%, NDC 38779038808, 9.6 grams
 - Gabapentin 5%, NDC 38779246108, 12.0 grams
 - Ketoprofen 10%, NDC 38779007805, 24.0 grams
 - Versatile Base, NDC 51552134308, 170.4 grams
2. The Austin carrier representative for Nationwide Mutual Fire Insurance (NMFI) is Flahive, Ogden and Latson. Flahive, Ogden and Latson acknowledged receipt of the copy of this medical fee dispute on August 23, 2016.

28 Texas Administrative Code §133.307 states, in relevant part:

- (d) Responses. Responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.
 - (1) Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received from Flahive, Ogden and Latson to date. The division concludes that the carrier failed to respond within the timeframe required by §133.307(d)(1). For that reason the division will base its decision on the information available.

3. Sentrix contends that Sedgwick Claims Management Service (Sedgwick), an agent of NMFI "failed to take final action within the 45-day period set forth in TAC §133.240." Furthermore, in its reconsideration request, Sentrix also alleges that "Sentrix has not ... received any sort of notification or EOBR."

According to Texas Labor Code Sec. 408.027(b), NMFI was required to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Sentrix. Corresponding 28 Texas Administrative Code §133.240(a) also required NMFI to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day. 28 Texas Administrative Code §133.2(6) defines final action as follows:

- (6) Final action on a medical bill—
 - (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
 - (B) denying a charge on the medical bill.

The following evidence supports the written statement from Sentrix that the pharmaceutical bill for the service in dispute was received by Sedgwick on Monday, March 21, 2016 and Friday, May 13, 2016:

- A copy of a USPS certified mail receipt with tracking number 9414 8118 9956 3141 8914 44 postmarked March 10, 2016.
- A USPS tracking document indicating that Sedgwick received USPS tracking number 9414 8118 9956 3141 8914 44 on March 21, 2016 at the location listed on the USPS receipt.
- A copy of a USPS certified mail receipt with tracking number 9414 8118 9956 3713 1852 78 postmarked May 5, 2016.
- A USPS tracking document indicating that Sedgwick received USPS tracking number 9414 8118 9956 3713 1852 78 on May 13, 2016 at the location listed on the USPS receipt.

When the insurance carrier receives a medical bill, it is obligated to take the following actions pursuant to 28 Texas Administrative Code §133.240:

- (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill...
- (e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:
 - (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

All workers compensation insurance carriers are expected to fulfill their duty to take final action as required by the divisions Laws and adopted administrative rules. The division finds that:

- no evidence was presented to the division to support that NFMI took final action by paying, reducing, or denying the services in dispute within 45 days; and
- no evidence was presented to the division to support that NFMI timely presented **any** defenses to Sentrix on an explanation of benefits as required under 28 Texas Administrative Code §133.240.

The division concludes that NFMI failed to reduce or deny the disputed services not later than the 45th day after receiving the medical bill. Therefore, the services will be reviewed in accordance with applicable rules and fee guidelines.

4. 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2).

Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula \$134.503(c)(1)	Billed Amt \$134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Amantadine 8%	38779041109 Generic	\$24.225	19.2 gm	$\$24.225 \times 19.2 \times 1.25 = \581.40	\$465.12	\$465.12
Amitirptylene 2%	38779018908 Generic	\$18.24	4.8 gm	$\$18.24 \times 4.8 \times 1.25 = \109.44	\$87.55	\$87.55
Baclofen 4%	38779038808 Generic	\$35.63	9.6 gm	$\$35.63 \times 9.6 \times 1.25 = \427.56	\$342.04	\$342.04
Gabapentin 5%	38779246108 Generic	\$59.85	12.0 gm	$\$59.85 \times 12 \times 1.25 = \897.75	\$718.20	\$718.20
Ketoprofen 10%	38779007805 Generic	\$10.45	24.0 gm	$\$10.45 \times 24 \times 1.25 = \313.50	\$250.80	\$250.80
Versatile Base	51552134308 Brand Name	\$2.50	170.4 gm	$\$2.50 \times 170.4 \times 1.09 = \464.34	\$426.00	\$426.00
Total						\$2,289.71

The total reimbursement is therefore \$2,289.71. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$2,289.71.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$2,289.71, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

	Laurie Garnes	December 30, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.